

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO REQUIRE WEARING MASKS IN PUBLIC IN THE CITY OF MONTGOMERY DURING THE COVID-19 PUBLIC HEALTH EMERGENCY AND RECOVERY**

**WHEREAS**, the Council has authority under Ala. Code, Sec11-47-130; Act No. 618 of 1973 and municipal ordinance 14-101 to prevent the introduction of contagious, infectious, or pestilential diseases into the City and to establish and regulate a sufficient quarantine, not inconsistent with laws of the state, in the City and to punish any breach of quarantine law; and,

**WHEREAS**, the Council finds that an emergency of unprecedented size resulting from the natural cause of community spread of a novel human coronavirus disease, COVID-19, has occurred in the City of Montgomery; and,

**WHEREAS**, COVID- 19 is a disease caused by a novel coronavirus, previously unknown in humans, and causes upper-respiratory tract illnesses that can range from mild to severe, spread quickly, and can cause death,

**WHEREAS**, the World Health Organization declared COVID-19 to be a global pandemic as of March 15, 2020; and,

**WHEREAS**, the spread and effect of COVID-19 has created a humanitarian crisis of unanticipated proportions; and,

**WHEREAS**, the City of Montgomery is threatened by COVID-19 because of the extraordinary ability of the virus to spread rapidly among humans, and COVID-19 thereby constitutes a clear and present threat to the health, safety, and welfare of the citizens and visitors of the City; and

**WHEREAS**, as of April 6, 2021, Alabama has had 516,918 identified cases of coronavirus, including 23,836 in Montgomery County, where the City of Montgomery is primarily located; and,

**WHEREAS**, Alabama has recorded 10,638 deaths attributed to COVID-19, with 561 of those deaths occurring in Montgomery County; and,

**WHEREAS**, the Centers for Disease Control (‘CDC’) has found that a significant portion of individuals with the novel coronavirus lack symptoms and those that eventually develop symptoms can transmit the virus to others before those symptoms appear, meaning that the virus can be spread between people interacting in close proximity to each other by actions such as breathing, speaking, coughing, or sneezing, even without exhibiting symptoms; and,

**WHEREAS**, in light of this strong evidence, CDC recommends wearing face masks in public settings;

**WHEREAS**, the City Council recognizes that it is critical to continue maintaining 6-feet social distancing to slow the spread of COVID-19, but that the additional use of simple face masks, as recommended by CDC, can significantly further aid in slowing the spread of the virus by reducing the chances of people transmitting the virus to others; and,

**WHEREAS**, in reopening certain businesses and other activities in the City of Montgomery, it is in the best interest of public health for individuals to continue to use social distancing and the additional precaution of face masks while in public contact with other persons; and,

**WHEREAS**, it continues to be extremely important to protect individuals from contracting the virus; and

**WHEREAS**, President Joseph R. Biden and CDC Director Rochelle Walensky have warned of a fourth wave of the virus and on March 28, 2021, urged the continuation of face mask mandates until virus case numbers are more under control and vaccination rates are higher; and

**WHEREAS**, vaccines have proven highly effective in preventing severe symptoms of the virus and provide protection to the vaccinated person, there is not enough evidence as to what extent vaccinated individuals can (or cannot) transmit the virus to non-vaccinated individuals; and

**WHEREAS**, there are highly contagious variants of the virus spreading, causing increased case numbers throughout the country, in which there is still not enough evidence to what extent the vaccines protect against these variants; and

**WHEREAS**, the Council finds that it is in the best interest of the public peace, health, welfare, and safety, and to preserve the lives of residents of the City of Montgomery, to require that face masks, be worn by persons when interacting in public spaces in the City of Montgomery.

## **SECTION 1.**

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Montgomery that face masks shall be required in public places within the City to slow the spread of the novel coronavirus disease, known as COVID-19, as follows:

### **(a) DEFINITIONS:**

*Mask*: A device to cover the nostrils and mouth of a person to impede the spread of saliva or other fluids and aerosols, including from breathing, speaking, coughing, sneezing or other intentional or involuntary action. Suitable face masks must meet the following criteria as advised by the CDC: have two or more layers of washable, breathable fabric; Completely cover your nose and mouth; Fit snugly against the sides of your face and don't have gaps; Have a nose wire to prevent air from leaking out of the top of the mask; or a gaiter with two layers, or fold it to make two layers.

*Indoor Space Open to the General Public*: places that offer goods and services to the general public including government buildings, restaurants, bars, grocery stores, hotels, retail or any

other stores, theaters, transportation services, gyms, medical offices and any other venues that are open to the general public.

## **SECTION 2.**

Each person shall wear a mask that covers his or her nostrils and mouth at all times when within six feet of a person from another household in any of the following places: an indoor space open to the general public, a vehicle operated by a transportation service, or an outdoor public space where ten or more people are gathered and 6 feet of distance cannot be maintained between each person.

## **SECTION 3.**

This mask requirement is subject to the following exceptions.

a. Exceptions for practical necessity. The mask requirement does not apply to:

- (i) Any child six years of age or younger or any child who has not yet entered the second grade;
- (ii) Any person with a documented proof from their physician of a legitimate medical condition or disability that prevents him or her from wearing a mask;
- (iii) Any person while consuming food or drink – masks should be worn at all times when entering, seated, waiting, and exiting a restaurant or bar;
- (iv) Any person who is obtaining a service (for example, a medical or dental procedure) that requires removal of the mask in order to perform the service; or
- (v) Any person who is required to remove the mask to confirm his or her identity, such as for security or screening purposes.

b. Exceptions for exercise. The mask requirement does not apply to:

- (i) Any person who is directly participating in athletic activities outdoors when there are 10 or less people or 6 feet of distance can be maintained;
  - (ii) Any person who is in a swimming pool, lake, water attraction, or similar body of water, though wearing a face covering or social distancing is strongly encouraged if safe and practicable.
- c. Exceptions for effective communication.

c. The mask requirement does not apply to:

- (i) Any person who is seeking to communicate with another person where the ability to see the person's mouth is essential for communication (such as when the other person has a hearing impairment); or

d. Exceptions to facilitate constitutionally protected activity. The mask requirement does not apply to:

- (i) Any person who cannot wear a mask because he or she is actively providing or obtaining access to religious worship, though wearing a mask is strongly encouraged.

e. Exceptions for essential job functions. The mask requirement does not apply to:

- (i) Any first responder (including law enforcement officers, firefighters, or emergency medical personnel) if necessary to perform a public-safety function; or

(ii) Any person performing a job function if wearing a face covering is inconsistent with industry safety standards or a business's established safety protocols.

**SECTION 4.** To the extent that this ordinance is in conflict with other ordinances of the City, this ordinance shall supersede the others until this ordinance is amended or repealed.

**SECTION 5.** Failure to comply with Section 1 of this ordinance can be enforced by a uniform non-traffic citation fine of \$25.00 for individuals and \$500.00 for businesses. Businesses who fail to comply a second time can be subject to a 14-day suspension of their business license pending a hearing of the City Council.

**SECTION 6.** Questions or comments from the public on this ordinance may be directed to the public 3-1-1 resource line and members of the city council.

**SECTION 7.** If any subsection, sentence, clause, phrase, or word of this ordinance or any application of it to any person, structure, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions or applications of this ordinance.

**SECTION 8.** This Ordinance shall become effective at 5:00 PM on Friday, April 9, 2021 and upon approval and publication or as otherwise provided by law. It shall remain in full force and effect for 30 days.

**ADOPTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2021.**

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**STEVEN L. REED, MAYOR**

**ATTEST:**

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**BRENDA GALE BLALOCK, CITY CLERK**